

COLLOQUIES

TPR Surrender Colloquy

Introductory remarks.

- Will everyone please identify themselves for the record?
- Will the parents who are surrendering please raise their right hands and be sworn?
- [Conduct this inquiry for each parent separately and create a clear record.]
- Please state your name.
- Please state your address.
- Please state your age.
- How far did you go in school?
- Do you read, write, and understand English?
- If not, do you read, write, and understand a language other than English?

Relation to child.

- [Conduct this inquiry for each parent separately and create a clear record.]
- Are you the parent of the child who is the subject of these proceedings?
- How are you related to the child? (ex. -mother, legal father, unmarried biological father, etc.)

Familiarity with termination of parental rights.

- [Conduct this inquiry for each parent separately and create a clear record.]
- [Verify that each parent was informed of the availability of private placement of the child with an adoption entity, as defined in section 63.032.]
- Have you seen the written surrender of parental rights document before?
- Did you read the surrender completely or have it read to you by another person?
- Do you understand each and every part of the surrender, including the rights you are giving up by surrendering your parental rights instead of fighting the case?
- Do you know that court papers called a petition have been filed seeking to terminate your parental rights?
- Were you served with the petition along with a notice of rights?
- Did you read the petition and your notice of rights?
- Did you discuss the petition and notice with your attorney?
- Do you understand what the petition and notice say?

Knowing, intelligent, and voluntary nature of the surrender.

- [Conduct this inquiry for each parent separately and create a clear record.]
- A surrender means you don't admit or deny what the petition says. It means that you lose your parental rights without a trial. Do you wish to surrender your parental rights?
- Is this **your own** decision and not someone else's decision?
- Do you understand that nobody else can force you to surrender your rights?
- Has anyone threatened you, forced you, mistreated you, lied to you, or pressured you to get you to surrender your rights?
- Has anyone promised you anything to get you to surrender?
- Do you know that other people's promises about the surrender are not binding on the court?
- Why are you surrendering your rights?
- Has a doctor told you to take any medications?
- Are you taking those medications? If not, how long has it been since you took them?
- Are you taking other medications, even if not from a doctor? When was the last time you took them?
- When is the last time you drank alcohol?
- When is the last time you took illegal drugs?
- Have you used anything in the last two days?
- If so, what did you use?
- Have you ever been told you have a mental illness?
- If so, what type?
- Are you being treated for it now?
- Have you discussed this case and your choices with your lawyer?
- Without telling us what exactly you talked about with your lawyer, are you satisfied with how your lawyer has represented you in this case?
- Have you had enough time to speak to your lawyer? Do you want more time to talk to your lawyer?
- After having spoken to your lawyer, do you still wish to surrender? If so, you may now sign the surrender.
- [If parent has already signed the surrender] If yes, is this your signature on the surrender?

Rights being waived.

- [Conduct this inquiry for each parent separately and create a clear record.]

- Do you understand that by surrendering your parental rights, you are giving up the following rights:
 - To have a trial or adjudicatory hearing.
 - To make the department and GAL prove the case against you.
 - To question the witnesses against you under oath.
 - To look at the evidence, such as photos, from the department and GAL that they wish to use at trial.
 - To call your own witnesses on your behalf and make them come to court, if necessary.
 - To present your own relevant evidence at trial.
 - To testify and present your side of the case if you wish and be questioned by the other side.
- Do you understand after you surrender your parental rights:
 - You will be a stranger to your child.
 - You will have no right to see or talk to your child.
 - You will have no right to visit your child.
 - You will have no right to ask questions about how your child is doing.
 - You will have no right to know where your child is living.
 - You will have no right to know if your child moves.
- Do you understand that once you surrender your parental rights, you can't simply change your mind and take it back?
- Do you understand that under the law, after acceptance by the department, your surrender and consent can only be withdrawn after a finding by the court that they were obtained by fraud or under duress?
- Do you understand that you are agreeing to give permanent care and custody of your child to the department so that the child can be adopted?
- Do you understand that you have no control over who adopts the child?
- Have you followed the court orders in the case to identify the children's relatives by providing names, addresses, and contact information?

Clarification.

- [Conduct this inquiry for each parent separately and create a clear record.]
- You may update your address with the department in the event the child wants to seek you out later.
- However, you do not have the right to compel the child to be given your address.

- You may write a letter to the child that will be held until the child reaches adulthood.
- However, you do not have the right to compel the child to respond to your letter nor do you have the right to have the letter delivered before the child reaches the age of eighteen.
- Before I accept your surrender, I must be certain that you are doing so knowingly, intelligently, and voluntarily.
- I don't want you to feel threatened, coerced, mistreated, lied to, or pressured for any reason here today. If you have any such concerns, now is the time to say something.
- Now that you have answered my questions, do you still want to surrender your rights?
- Is there anything about the surrender that you do not understand?
- Do you have any questions?
- Does your attorney have anything to say or put on the record?

Other parties.

- Do either the department or GAL have anything that they wish to say or put on the record?
- Does the child's attorney or the child (if the child is present and of an appropriate age, intelligence, and understanding) have anything they wish to say or put on the record?
- Does the department accept the surrender?

Post-surrender.

- [Make these findings for each parent separately and create a clear record.]
- I find that the surrenders of parental rights are knowing, intelligent, and voluntary; have been accepted by the department; and comply with the requirements of chapter 39.
- I find that the parent named _____ :
 - Does not appear to be impaired by medication, alcohol, or drugs.
 - Does not appear to be impaired by mental illness [specify if applicable] from surrendering parental rights.
 - Is aware of the consequences of the surrender.
 - Has knowingly, intelligently, and voluntarily surrendered all parental rights to the child.
- You and your attorney have the right to participate in another hearing to determine if it is in the child's manifest best interests to terminate your parental rights.
- Do you wish to attend the manifest best interest hearing or do you wish to waive attendance at that hearing?
- Do you want your attorney to attend that hearing instead of you?
- You have 30 days from the entry of the termination of parental rights judgment to appeal.

- The parents for whom counsel was appointed have the right to file a motion in the circuit court alleging that appointed counsel provided constitutionally ineffective assistance.
- [The court has previously found the parents to be indigent and eligible for appointed trial counsel. The court finds the parents to be indigent and eligible for appointed appellate counsel. However, the parents do not have the right to appointed counsel to file a motion alleging that trial counsel provided constitutionally ineffective assistance.]
- Is there anything you or your attorney would like to say before I end the hearing?

Next hearing and conclusion.

- The hearing on manifest best interests is set for _____.
- Court is adjourned.